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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/775,395	02/01/2001	Bret David Hawkins	PU010024	7987

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Joseph S. Tripoli
THOMSON Multimedia Licensing Inc.
P.O. Box 5312
Two Independence Way
Princeton, NJ 08543-5312

EXAMINER

NGUYEN, HUY THANH

ART UNIT	PAPER NUMBER
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2616

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/775,395

Applicant(s)

HAWKINS, BRET DAVID

Examiner

HUY T NGUYEN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1,3,5-6, 8 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Gruse et al (6,173,112).

Regarding claim 1, Gruse discloses a method for processing program data, comprising the step of:

receiving program data (program guide) (column 1, lines 24-40, column 2, lines 55-68);

receiving selection of a program (column 2, lines 58-65, column 3, lines, 37-58), column 4, lines 34-55);

receiving request for recording of the selected program (column 3, lines, 37-57);

determining whether the selected program is already and if the selected program is already progress , providing a choice to record a later occurrence (searching the display program guide for later occurrence) of the selected program so that the entire

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selected program may be recorded (column 3, lines 37-47, column 4, lines 34-55, Fig. 4 Abstract)

Regarding claim 3, Gruse further teaches step of searching the program data for the later occurrence of the selected program (Fig. 4).

Regarding claim 5, Gruse further teaches the later occurrence of the next immediate occurrence of the selected program (Fig. 4, Abstract).

Regarding claim 6, Gruse discloses a system (Figs. 1 and 2) for processing program data, comprising the step of :

means for receiving program data (column 1, lines 24-40, column 2, lines 55-68);

means for receiving selection of a program and a request for recording of the selected program (column 2, lines 58-65, column 3, lines, 37-58), column 4, lines 34-55); and

means for determining whether the selected program is already in progress, and the selected program is already in progress, providing a choice to record a later occurrence of the selected program so that the entire selected program may be recorded (column 3, lines 37-47, column 4, lines 34-55, Fig. 4, Abstract).

Regarding claim 8, Gruse teaches the means for determining further searching the program data for the later occurrence of the selected program(Fig. 4, Abstract)..

Regarding claim 10, Gruse teaches the later occurrence of the selected program is the next immediate occurrence of the selected program (Fig. 4, Abstract).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claim 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gruse et al in view of Maze et al (EP 0774868 A1).

Regarding claim 11, Gruse discloses in a video apparatus (Fig. 1 and 2) in which at least program data for programs is received to form a channel guide, method comprising:

receiving a user request (column 1, lines 24-40, column 2, lines 55-68);
performing a search of said program data for a match to said user entered request (column 2, lines 58-65, column 3, lines 37-58), column 4, lines 34-55);

if said found program is already in progress, offering to record later occurrence of the found program so that the entire found program may be recorded (column 3, lines 37-47, column 4, lines 34-55, Fig. 4, Abstract).

Gruse fails to specifically teaches determining a match between the user request and searched program guide data .

Maze teaches a apparatus having a control means for searching the program guide data and determining a matched program is found based on search data and a user request (column 3) .

It would have been obvious to one of ordinary skill in the art t modify Gruse with Maze by providing Gruse with a control means as taught by Maze for determining a matched program between the searched program guide and a user request . program thereby reducing time and labor of the user in selecting a program to record .

Regarding claim 13, Gruse , further teaches searching the program data for the later occurrence of the found program Fig 4).

Regarding claim 15, Gruse further teaches that the later occurrence of the found program is the next immediate occurrence of the found program (Fig, 4, Abstract)

5. Claims 2 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gruse e al in view of Kuroda (6,311,011).

Regarding claims 2 and 7, Gruse fails to specifically teaches providing the user with a choice for recording the remaining portion of the selected program . Kuroda teaches a recording apparatus having means for recording a remaining portion of

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selected program when the selected program is in progress(column 5, lines 10-15, column 5, lines 38-43). I would have been obvious to one of ordinary skill in the art to modify Gruse with Kuroda by providing Gruse with a control means as taught by Kuroda for enable recording a remaining program when the selected program in progress thereby providing more flexible selection to the user in recoding a program .

6. Claims 4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gruse et al in view of Kang et al (5,543,933).

Gruse fails to specifically teaches warning when the program is determined in progress . However, it is noted that using a control means having generating a warning in accordance with a preset condition is well known in the art as taught by Kang (Fig. 7).Therefore, it would have been obvious to e of ordinary skill in the art to modify Gruse with Kang by using the teaching of Kang for providing Gruse with a control means having a preset instruction to generating and providing a warning to the user when determining that the program is in progress thereby enhancing the function of the apparatus of Gruse to assist the user in recording a program .

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gruse et al in view of Maze et al as applied to claim 11 above, further in view of Kuroda (6,311,011).

Regarding claim 11, Gruse fails to specifically teaches providing the user with a choice for recording the remaining portion of the selected program . Kuroda

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teaches a recording apparatus having means for recording a remaining portion of a selected program when the selected program is in progress (column 5, lines 10-15, column 5, lines 38-43). It would have been obvious to one of ordinary skill in the art to modify Gruse with Kuroda by providing Gruse with a control means as taught by Kuroda for enable recording a remaining program when the selected program in progress thereby providing more flexible selections to the user in recoding a program.

8. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gruse et al in view of Maze et al as applied to 11 above, further in view of Kang et al .

Gruse fails to specifically teach providing a warning when the program is determined in progress. However, it is noted that using a control means for generating a warning in accordance with a preset condition is well known in the art as taught by Kang (Fig. 7). Therefore, it would have been obvious to one of ordinary skill in the art to modify Gruse with Kang by using the teaching of Kang for providing Gruse with a control means having a preset instruction to generate and provide a warning to the user when determining that the selected program is in progress thereby enhancing the function of the apparatus of Gruse to assist the user in recording a program.

Conclusion

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9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hashimoto et al teaches a recording apparatus for recording a selected program by using the title of the program.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY T NGUYEN whose telephone number is (571) 272-7378. The examiner can normally be reached on 8:30AM -6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (571) 272-7375. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

H.N


HUY T. NGUYEN
PRIMARY EXAMINER